3: Barrett E-5 (1908-1909)1925
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In the Cayapa country the stocks is strictly
681 a Spanish institution, so far as can be learned, and has
177 no Cayapa name, but is always called by the Spanish term cepo, or, as it is rendered locally, se'pō. So far as known it was introduced among the Cayapa by early missionaries.

622 In speaking of ceremonies (page 392), detailed descriptions are given of the methods of punishment, which theoretically is meted out only by the chief and the sub-
[624] chief. The remaining officers of the government, however, take a hand in the actual punishment when asked to do so by the chief, though their special duty is to apprehend and bring the offenders to justice, to keep order at fiestas and other gatherings, and generally to execute the laws devised by the chief, whose authority is supreme and whose word in all matters is absolutely binding. His attitude, however, is in no way oppressive; on the contrary, he displays great deference to public opinion and conducts the affairs of government in a harmonious and satisfactory manner. Perhaps the operations of the Cayapa governmental machinery are shown to best advantage in the settlement of what may be termed civil difficulties, for, as has been previously pointed out,
[674] there are few fixed laws among the Cayapa, largely for the reason that few crimes are committed. The laws are
577 more in the nature of canons of ethics than statutory en-
•671 actments, and they may be varied to a certain extent by public opinion concerning the particular case in hand.
674 The Cayapa maintain that they have no punishment for theft, because theft does not exist either among themselves or against their neighbors. This reputation is borne out by the whites and negroes of the region, who

announced that he knew more of the law than did Gabriel. The Cayapa plainly do not know how to deal with Pindalenas. Some Cayapa say that he has absolutely no right to interfere in the legal disputes. Similarly, Gabriel points out that the Negro is merely his employee and nothing more, but a few Cayapa think that perhaps he can take part in the adjudicating of disputes. They are not very certain, but if Pindalenas acts as if he can, then perhaps he can. On occasion he has asked Cayapa women to dance with him at the fiesta in the Cayapa manner, but he has always been refused. No other Negro has ever attempted to dance with a Cayapa woman. In the disputes witnessed by the writer at which Pindalenas was present, he seemed to restrict himself to echoing the judgments reached by the Cayapa officials.

Such governmental activities as exist for the Cayapa will be amply illustrated in terms of their law. In point of fact, Cayapa law can be said to be the major part of Cayapa government. Political behavior for the Cayapa is intimately related to governmental instability which is largely the result of interregnum

uncertainties. These uncertainties are carried over into the new period of chieftainship wherein there is a great difference between the people's perception of authority and their expectation of authority. Gabriel is not seen as a strong chief but, rather, as a man who drinks excessively and as a result, is unable to function as a chief should. At this point political behavior took two forms among the Cayapa. On one level, individuals were seen expressing dissatisfaction with Gabriel as the newly installed /ʔuʔ/ and threatening to go to Quito, the national capitol, to have him replaced. The youngest son of the late /ʔuʔ/ was voicing complaints that by rights he should have been the /ʔuʔ/ because he speaks excellent Spanish in marked contrast to Gabriel. Most of the complaints seemed to emanate from the lower reaches of the Río Cayapa, more especially from the region of Pichiyaco, the home of the late /ʔuʔ/. Complaints were voiced that Gabriel could not speak good Spanish, that he could not perform his duties, that he could not settle disputes, that he was /vinriku/, "a drunkard." As the time drew near for the Christmas fiesta at Punta Venado, many people

4 Altschuler E-5 (1959-1960) 1965
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CHAPTER IV

DEVIANCE AND LAW IN THE AREA OF SEX RELATIONS

In terms of attitudes and decisions, Cayapa law can be marked off in two grand divisions: the sacred and the profane. The sacred involves the realm of sin, and sin for the Cayapa is to be found completely in the area of sexual behavior. Illicit sexual adventures, if exposed, are always punished by whipping and/or the use of the stocks. We have no information, but in all probability the whip and the stocks were introduced to the Cayapa at a very early period by Catholic missionaries. Regardless of the source of these two articles of punishment, the Cayapa have taken to them enthusiastically. The question of why sex should be so charged with feelings of sin requiring a special mode of punishment will be discussed later, when we deal with personality factors. While the Cayapa talk about sin and characterize many people as being sinners, my data do not indicate that they either dwell on, or even conceptualize sin, in terms of a world view. Rather,

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they dwell on, are attracted to, and are repulsed by sexual involvements. In this, they agree with the missionaries, and if the missionaries call this area of life sinful, the Cayapa can readily agree. We shall see that it is in the realm of sexual deviancy and in the attempts made by Cayapa lawmen to come to grips with it that the most sweeping socio-cultural changes take place.

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Incest. Incest is generally viewed by the Cayapa as being particularly heinous. In the olden days, it is asserted, when the Cayapa lived in one village at Pueblo Viejo, anyone guilty of such a crime would be placed suspended over a table which was covered with lighted candles, and then, slowly roasted to death. While this may be apocryphal, it does indicate strong negative feelings towards incestuous behavior. The Cayapa are very clear about this and state that incest is a sin, that it goes against Jesus' commandments and must be punished. Barrett recorded the following case which indicates that the punishment was still severe if not as extreme.

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4:Altschuler E-5 (1959-1960) 1965
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CHAPTER VII

CONCLUSION

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The nexus between the realms of Cayapa law, government, and politics, can be found in the area of personality and social structure. The law derives from a functional complex that is characterized by a deep-rooted anxiety, sexual inadequacy, heavy permissive and dependent drinking, periodic political behavior, and individual deviant behavior that ultimately leads to sweeping socio-cultural changes. The framework of this complex, and its legal derivative, is a society that is bi-laterally organized and lacks corporate bodies; whose only action groups are marked by constant changes in personnel, as individuals and family members move about tending their widespread land holdings. Cayapa fear and anxiety, coupled with a generalized fear of others, effectively blocks the formation of action groups that are more than temporary unions of very short duration. Even non-kin dyadic friendship groups were marked by extreme instability as the bonds of friendship are being constantly tried and probed and usually found wanting.

and probed and usually found wanting.

Cayuga law readily lends itself to a division into Civil and Criminal law. The former is concerned mainly with property (especially land) while the latter is preeminently concerned with sexual behavior and sin. In the realm of Cayuga Civil law, especially in cases that involve land, legal decisions are compromises in the sense that the usurper is permitted limited return on his labor. There is agreement by all parties to the dispute that land as such is owned, but lacking written records, the best proof that a claimant to land ownership has is evidence of his having worked the land he claims. Work is the best validation of ownership, but the land need not be continuously worked: however, as work is neglected, and as memories fade, ownership is contested. Basically, land disputes involve a claim by the usurper that the original ownership is in jeopardy. These claims are always balanced with the claims of the owner and a compromise solution is reached. The land, in effect, is shared for a period of time and the owner is warned that he must continue to work his land intensively or be subject to further challenges to his ownership. Compromise is an effective

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4 Altschuler E-5 (1959-1960) 1965
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solution and serves to exclude the chief from entangling alliances with one party as opposed to the other. Whether this serves to enhance the position of the chief in his role as third person in the legal process, is not clear. Aubert (1963) believes that mediating decisions foster independence for the third party office, as well as increased prestige. Structurally, the office of /ɣaʔɬ/ is an independent one that does not permit the formation of alliances with groups that are virtually impossible to form anyway, given the social and psychological structure of Cayuga culture.

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In the legal materials dealing with land it is seen that all of the parties to the dispute were in complete agreement as to the nature of land and its ownership. Conflict does not involve different value positions on the part of the disputants but rather individuals are competing for scarce goods that embody shared cultural values. Polygyny among the Cayuga represents a mixture of competing interests, as in land disputes, and also some lack of agreement as to what the basic issues and values are. Women are valued goods, in a sense, that at present are in great supply. A compromise solution, as in land disputes, is not

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possible to reach, inasmuch as the religious element of sin is also a factor, and the Church cannot condone sin. We must condemn the parties involved in the polygynous marriage. The dispute does not involve a conflict of interests, as in the land cases, but rather new values that markedly conflict with traditional values. The individuals holding the new values refuse to accept an aligned decision, that is, a decision based in effect on an "alliance" with the believers of the traditional values. Ultimately, if the unilateral decision against polygyny cannot be enforced, it is superseded by de facto compromise. Thus, if the parties have been punished once but persist in their sinful behavior, further punishment is left to God, and the polygynous union may continue.

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For cases of incest and adultery, the conflict of interest, although present, is minimal. In addition, conflicting values are not an issue, as no one seriously presents a new value position that encourages incest and adulterous behavior. The nature of incest and adultery is such that a compromise solution, while not impossible perhaps, is improbable. In these cases, where sinful behavior is at issue, the official can adopt a unilateral

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non-compromise position. Persistence in transgression, however, is tantamount to the defense of new value positions that leads to de facto compromise. The Cayapa judge, with the legal avenues that are open to him, cannot handle a strong personality, that is, one that either develops new values, as the polygynist, or the one that refuses to be deterred from wrongdoing, as in the case of the persistently incestuous couple.

Eventually, de facto compromise may assume the dignity of social acceptance. The effective restraint of the poor would-be polygynist, as opposed to the de facto acceptance of the wealthy polygynists, may lead to the formation of class distinctions: that is, a wealthy man will be permitted to have more than one wife but a poor man will not be permitted to enjoy this privilege. Normally, it would be expected that incest could achieve social acceptance only with great difficulty, but from an examination of the case of Lorenzo Ahape (p. 159) it becomes clear that the incest range for some people is narrowing considerably, for in this case the incestuous arrangement has been given the express approval of the families concerned and de facto

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compromise on the part of the /Cayapa/ permits the continuance of this union.

Many things somewhat beyond the ordinary cannot be handled directly, but only by means of de facto compromise or latently. Every society is an action system that in one degree or another utilizes specific innovations for definite ends. Often, the latent functions of an innovation incur more sweeping changes than do the manifest ones. For example, the manifest function of the Indian school was to increase literacy. Its latent function was to increase homosexual behavior. The cultural emphasis for the Cayapa seems to be that of latency, and sweeping changes come about, not because they are sought, but because the socio-psychological matrix of the law can only permit de facto acceptance of threats to basic values.

Cayapa law, in terms of de jure decisions is not at all able to "redefine relations between individuals and groups as the conditions of life change" (Hoebel 1954:271). Cayapa culture is not, however, moribund. Extraordinary socio-cultural changes are taking place precisely because the law cannot accommodate

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easily to new economic changes and value positions which are redefining relationships between people. The redefining of a situation, or the creation of a new structural arrangement, very often involves legislation or political behavior. For the Cayuga, new definitions and new structural arrangements cannot be legislated through de jure decisions; nor can they take place through primary political involvement due to the paucity of strategic political possibilities inherent in a bilateral system that lacks corporate bodies which may be utilized in the formation of alliances; rather, they take place by means of de facto compromise.

Some authorities maintain that political behavior involves the "formation of new principles of organization" (Siverts 1960). That is, groups or individuals who have differing ideological or value commitments attempt to restructure society. In these terms, Cayuga behavior is not so much political as governmental. It is concerned mainly with the maintenance of stability and the status quo. Such political behavior as is found among the Cayuga apparently stems from periods of uncertainty that are in part sociological and in part psychological. When a new [illegible] takes the onus

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When a new /ɡaʔi/ takes the reins [illegible]

of authority, his individual personality and behavior, complicated by the cultural emphasis on heavy drinking, will affect the complementarity of expectations between the /ɡaʔi/ and the people. If there is a lack of conformity between the behavior of the /ɡaʔi/ and the expectancies of the people, there will be an effort on the part of individuals to effect conformity by engaging in moralizing, gossiping, nagging, and threats to shift allegiance to other authorities—all directed against one man, the /ɡaʔi/. The aim of all of these kinds of behavior is to return to the status quo ante, when the late /ɡaʔi/ was the image of true leadership. As the new /ɡaʔi/ is pressured into modifying his behavior in the directions of the cultural expectancies, the agitation and political behavior will diminish.

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